



SEP 27 2001

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In re Application of : NOTIFICATION
OKAYASU et al. :
Application No.: 09/581,689 :
PCT No.: PCT/JP98/05785 :
Int. Filing Date: 21 December 1998 :
Priority Date: 19 December 1997 :
Attorney Docket No.: 450101-4689 :
For: DEVICE CONTROL APPARATUS AND :
METHOD :

This is in response to the submission filed by applicants on 19 June 2001.

BACKGROUND

On 21 December 1998, applicants filed international application PCT/JP98/05785, which claimed a priority date of 19 December 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 01 July 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 July 1999, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 19 June 2000.

On 15 June 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a translation of the international application into English.

On 19 July 2000, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that the translation of the international application into English was defective because the number of claims in the international application and the number of claims in the translation were not the same, that a translation of the international application as well as the processing fee under 37 CFR 1.492(f) were required, and that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) as well as the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were also required. The NOTIFICATION set a one-month extendable period for reply.

On 26 September 2000, applicants submitted a declaration of the inventors, a check for the surcharge in the amount of \$130.00, and "the English translation of the PCT application filed 21 December 1998 in Japan."

On 04 October 2000, the USPTO mailed a NOTIFICATION OF A DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the translation of the international application into English filed 26 September 2000 was defective and that while the surcharge under 37 CFR 1.492(e) had been paid, the processing fee under 37 CFR 1.492(f) had not. The NOTIFICATION OF A DEFECTIVE RESPONSE was accompanied by a NOTICE OF DEFECTIVE TRANSLATION (Form PCT/DO/EO/913) which stated that several of the claim dependencies had been changed in the translation and cited as an example that claim 5 is dependent on claim 4 in the English translation but not in original claim 5.

On 26 October 2000, applicants submitted a "REQUEST FOR RECONSIDERATION" requesting that the NOTIFICATION OF A DEFECTIVE RESPONSE and NOTICE OF DEFECTIVE TRANSLATION mailed 04 October 2000 be withdrawn. The request was accompanied by a copy of the claims as originally filed in the international application with the dependency of claim 5 translated.

On 30 May 2001, the USPTO mailed a decision vacating the NOTIFICATION OF A DEFECTIVE RESPONSE and the NOTICE OF DEFECTIVE TRANSLATION mailed 04 October 2000. The decision also noted, however, that the translation of the international application filed 26 September 2000 was defective because it did not include a translation of the following drawings as originally filed: Figures 1, 4, 6, 10, 11, 13, 14, 21, 28, 30, 31, 35, and 37. The decision stated that a translation of the international application as filed into English, including the drawings, and the processing fee under 37 CFR 1.492(f) were required. A one month extendable time period was set.

On 19 June 2001, applicants filed the instant submission which was accompanied by the surcharge under 37 CFR 1.492(f) and copies of Figures 1, 4, 6, 10, 11, 13, 14, 21, 28, 30, 31, 35, and 37 containing English translations of the drawings as originally filed in international application PCT/JP98/05785.

DISCUSSION

With the submission of Figures 1, 4, 6, 10, 11, 13, 14, 21, 28, 30, 31, 35, and 37 containing English translations of the drawings as originally filed in the international application, a translation of the international application into English has been provided. Accordingly, the requirements of 35 U.S.C. 371(c) were met as of 19 June 2001.

If applicants desire to amend the specification and claims to correspond to the English

specification filed 15 June 2000, they may do so pursuant to 37 CFR 1.121 or 1.125.

CONCLUSION

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including (1) replacing the copies of Figures 1, 4, 6, 10, 11, 13, 14, 21, 28, 30, 31, 35, and 37 filed 26 September 2000 with the copies of these Figures filed 19 June 2001 and (2) according the application a 35 U.S.C. 371(c) date of **19 June 2001**.



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